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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,431	03/26/2004	Leszek G. Szmidt	15918.02	8096
7590	05/09/2005		EXAMINER	
Richard C. Litman LITMAN LAW OFFICES, LTD. P.O. Box 15035 Arlington, VA 22215				FISCHMANN, BRYAN R
		ART UNIT		PAPER NUMBER
		3618		

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/809,431	SZMIDT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bryan Fischmann	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 13-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 13-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                                 |                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                            | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03-26-2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                                                 | 6) <input type="checkbox"/> Other: _____                                    |

***Acknowledgments***

1. The Preliminary Amendment dated 3-26-2004 has been entered.

***Specification***

2. The specification is objected to because of the following:
  - A) The following recited phrases are unclear, awkwardly worded, and/or grammatically incorrect:
    - 1) Line 23 of page 17 recites "right left joint 74". It is believed this should instead read "left joint 74".

***Information Disclosure Statement***

3. The last reference on the first page of the Information Disclosure Statement (IDS) dated 03-26-2004, Cone, was listed as Patent Number 51041346. The correct Patent Number is 5104134. This was corrected on the IDS.

***Claim Objections***

4. Claim 18 is objected to because of the following:
  - A) To improve wording, it is believed that the word "to" appear before the word "provide" on line 2 of claim 18.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Art Unit: 3618

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 14-20 are rejected under 35 USC 101 due to the following:

Claim 14 appears to positively recite "...a user..." and "...a child" in the last line.

A "user" and a "child" are non-statutory subject matter.

To overcome this rejection, the Applicant should only recite a "user" or a "child" clearly within functional language.

Note claims 15-20 are dependant upon claim 14.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Epelbaum, US Patent 3,829,113, in view of Rodriguez, US Patent D333,543.

Epelbaum teaches a wheeled frame for attachment to a standard child car seat for transport of a child comprising:

a generally rectangular lower frame having tubular uprights (22), an upper cross member (28), and a lower frame cross member (28);  
an upper handle frame having upright members (58) and an upper cross member (28);

said handle frame upright members being slidably engaged with said lower frame tubular uprights between at least a first position and a second position (see Figures 1-3);

said lower frame cross member having wheels (34) at opposing ends thereof;

said lower frame tubular uprights having respective clamps (32 and 33 – see also comments below) disposed therealong; and

said lower frame being so sized and configured as to securely receive a standard car child seat (see Figure 5);

whereby said car child seat is supportable on said wheeled frame secured to said lower frame tubular uprights by fastening said clamps to the back portion of said child car seat, said wheels supporting said wheeled frame and child car seat for transport of a child (see drawing figures).

Epelbaum fails to teach that the lower frame cross member has at least one horizontally disposed support plate mounted thereon and extending forward of said lower frame. Epelbaum instead teaches only tubes forward of the lower frame cross member.

However, Rodriguez teaches a wheeled frame comprising a lower frame cross member having at least one horizontally disposed support plate mounted thereon and extending forward of a lower frame (Figure 7). A lower support plate on a wheeled frame, as opposed to tubes, is advantageous in that a “tubular seat” such as reference number 70 of Epelbaum is more easily placed on a plate, as taught by Rodriguez, than on a tubular frame, such as taught by reference numbers 24 and 30 of Epelbaum, in

that the plate of Rodriguez does not require "alignment" of the tubes of the seat and frame, as is required by Epelbaum. The plate of Rodriguez is also advantageous in that the plate of Rodriguez is less susceptible to allowing "unwanted movement" of the seat of Epelbaum, as "exact alignment" of the plate of Rodriguez and tubular seat of Epelbaum is not required for "stability", as would be the case where the tubular base 72 of the tubular seat 70 of Epelbaum must "exactly align" with the tubular frame "base" 24 and 30 of Epelbaum for the tubular seat of Epelbaum to be supported in a "stable manner". Note also that a "round tube" such as reference number 72 of Epelbaum is more easily placed on a flat surface, such as the plate of Rodriguez, than another "round tube", such as reference number 24 of Epelbaum.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a horizontally disposed support plate in the wheeled frame of Epelbaum, as taught by Rodriguez.

Regarding the term "clamp", note Webster's Collegiate Dictionary, 10th Edition defines "clamp" as: "a device designed to bind...two or more parts together". Note that this is consistent with reference numbers 32 and 33 of Epelbaum.

Regarding claim 14, see Figure 1 of Epelbaum.

#### ***Allowable Subject Matter***

9. Claims 15-20 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 101, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims and to overcome any applicable claim objections.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hanson, Kazmark, Sr., Preisinger, Hopkins, Turek, et al, Schaaf, et al, DE 4111010 – teach wheeled frames and/or child car seats

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (571) 272-6694. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis, can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRYAN FISCHMANN  
PRIMARY EXAMINER  
5-45